

**State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2900 FAX (603) 271-2456



March 6, 2002

**Certified Mail
Return Receipt Requested**

**Letter of Deficiency
No. WMD 02-11**

Art Brnger d/b/a
Brnger Enterprise
P.O. Box 10244
East Swanzey, NH 03446

Re: SWC 02-010; Route 12, Swanzey, NH 03446

Dear Mr. Brnger:

On February 15, 2002, personnel from the Department of Environmental Services, Waste Management Division (DES) conducted an inspection of your property located along Route 12, Swanzey, NH (Site). The purpose of this inspection was to determine whether you were in compliance with RSA 147-A, RSA 149-M and rules adopted pursuant thereto relative to the proper management of hazardous and solid wastes.

As a result of the inspection, the following deficiencies were noted:

1. DES observed approximately 30 cubic yards of solid waste in a pile in the railroad right of way at the Site. The solid waste consisted of wooden pallets, scrap metal, and other automotive debris. RSA 149-M:9, II prohibits the disposal of solid waste at any facility other than an approved facility.
2. DES observed approximately 5,000 scrap tires at the Site. The scrap tires observed did not conform to the required tire pile size prior to disposal in accordance with Env-Wm 2605.02
3. DES observed stained soil in the vicinity of three 275-gallon tanks used to store used oil, gas, and antifreeze. DES also observed stained soil around the top of a buried underground storage tank. The capacity of the tank is unknown. Mr. Brnger informed DES that there was still #2 fuel oil product in this tank. Env-Wm 513.02(a) requires a generator to immediately contain and clean-up any discharge of material which, when discharged, becomes a hazardous waste.

4. Adjacent to the three tanks, DES observed an unsealed and unlabeled 5-gallon container of used oil. Env-Wm 807.06(b)(4) requires that containers of used oil be clearly labeled with the words "Used Oil for Recycle." Env-Wm 807.06(b)(5) requires that all containers of used oil be closed and sealed at all times except when used oil is being added to or removed from the container or tank. Env-Wm 807.06(b)(6) requires that containers of used oil be maintained in a manner to prevent spillage, seepage, or other discharge of used oil into storm or sanitary sewers, onto the land, or into ground or surface waters.

DES believes that the cited deficiencies can be corrected by completing the following requested remedial actions within the time indicated:

1. **Within 90 days** remove all solid waste from the railroad right of way and dispose of the solid waste at a permitted solid waste facility.
2. **Within 90 days** store all scrap tires on-site in accordance with Env-Wm 2605.02(b)(3). A copy of this regulation is enclosed for your reference.
3. **Within 180 days** remove scrap tires at the Site and send them to a permitted solid waste facility.
4. **Within 90 days** submit a plan to DES to properly characterize and dispose of the petroleum contaminated soil beneath the storage tanks and above the underground storage tank.
5. Based upon the results of the characterization, dispose of any contaminated soil within **45 days** of the plan's approval by DES to a facility permitted to handle such waste.
6. **Immediately** label containers of used oil with the words "Used Oil for Recycle."
7. **Immediately** close and seal containers of used oil.
8. **Within 30 days** ensure that all used oil and antifreeze is stored in Department of Transportation approved containers and maintained in a manner to prevent spillage or seepage to the ground, ground water, or surface waters.
9. **Within 180 days**, submit to DES written confirmation that these steps have been completed, including copies of all disposal receipts for the solid waste, at the address below.

A written report as requested above should be addressed as follows:

DES, WMD
6 Hazen Drive
Concord, New Hampshire 03301-6507

Attention: Kenneth W. Marschner

In the event compliance is not achieved within the time period indicated above, DES may initiate formal enforcement action against you, including issuing an order requiring the deficiencies to be corrected and/or referring the matter to the New Hampshire Department of Justice for imposition of civil and/or criminal penalties. DES reserves the right to pursue administrative fines for the violation(s) noted above.

A goal of DES is to promote the prevention of pollution at the source as the preferred option for meeting established environmental quality goals. DES strives to ensure that pollution prevention options are considered first, followed by recycling, treatment and lastly, disposal. If you have any questions about pollution prevention, please contact Ms. Stephanie D'Agostino at 271-6398.

Your prompt cooperation is appreciated. Please contact George Carrigan at (603) 271-3899 if you have any questions or need further assistance.

Sincerely,

COPY


Kenneth W. Marschner
Administrator
Waste Management Programs

Certified Mail RRR#: 7099 3400 0002 9769 7600

CC: DB/Town/File
Philip J. O'Brien, Ph.D., Director, WMD
Gretchen Rule, Enforcement Coordinator, DES
Town Clerk, Swanzey, NH
S. D'Agostino, DES

Enclosure: Env-Wm 2605.02